

SENATE NO. 1244

AN ACT TO PROMOTE SAFE PATIENT CARE AND SUPPORT THE NURSING PROFESSION

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Analysis of Workforce and Faculty Resources

2 (a) Review of Workforce Initiatives

3 (1) The Secretary for Administration and Finance is hereby authorized and directed to make an
4 investigation and study of all state agencies, or quasi-state agencies, to determine the efficacy of
5 existing programs related to workforce development and report back to the legislature by April 15,
6 2009 with recommendations for the development of new or redesigned state programs to create a
7 pathway for an enhanced health care workforce.

8 (2) Said investigation and study shall include, but not be limited to, identifying ways to increase the
9 number and diversity of people choosing health care occupations, increase retention rates among
10 Massachusetts current health care workers, and recommending measures to coordinate health care
11 worker shortage solutions in the state.

12 (b) Review of Nurse Faculty Resources

13 (1) The Board of Higher Education, in collaboration with the Department of Labor and Workforce
14 Development, the Board of Registration in Nursing, and the Massachusetts Center for Nursing, Inc.,

in addition to the nurse scholar program established pursuant to subsection 4, of section 19F of chapter 15 as inserted by this act, is hereby authorized and directed to make an investigation and study of the nurse faculty shortage in the Commonwealth and report back to the legislature by April 15, 2009 with recommendations to enhance the nurse faculty pipeline within the state.

(2) Said investigation and study shall include, but not be limited to, the collection and analysis of: school capacity data including numbers of doctoral and masters prepared faculty; budgeted and vacant positions; projections on intentions to retire; data on the numbers of students who have been turned away or are on waiting lists due to shortage of budgeted faculty positions; vacant faculty positions; the capability of both undergraduate and graduate schools to develop nursing programs based on the number of qualified undergraduate and/or graduate students interested in nursing, as well as the number of available faculty to develop a nursing program, or lack of clinical placement sites; the supply of masters and doctoral prepared nurses in the state who might be available to move into education positions; and, the types and components of partnerships between schools and healthcare facilities focused on sharing of resources to enhance nursing education, research or leadership development.

(3) Said investigation and analysis shall be conducted on a statewide basis and include both publicly funded and private schools to provide comprehensive data on the current and future extent of the faculty shortage.

SECTION 2. Promoting Health Care Professions

The Executive Office of Economic Development, in collaboration with the State Board of Education, the Board of Higher Education, and the Massachusetts Hospital Association, is hereby authorized and directed to develop a comprehensive statewide plan to promote healthcare professions to the general public. Said plan shall include specific recommendations that various

38 state agencies may act upon to further the goals of enhancing public interest in health care
39 professions, including but not limited to school age children and adults seeking a change in career,
40 and increasing the supply of health care workforce . The Department shall complete said plan and
41 file a copy with the House and Senate clerks no later than April 15, 2009.

42 SECTION 3. Enhancing the Availability of Nursing Workforce Data

43 Notwithstanding any general or special law to the contrary, the Executive Office of Health and
44 Human Services and all agencies, departments and boards within said secretariat, the Department of
45 Labor and Workforce Development, the Board of Higher Education and any other state agency,
46 board or department that collects data, conducts surveys or gathers information related to the
47 practice of nursing, the supply of nursing workforce, the supply of nursing faculty or other nursing
48 workforce issues shall regularly submit said data and information to the Massachusetts Center for
49 Nursing, Inc.

50 SECTION 4. Establishing the Clara Barton Nursing Excellence Programs

51 (a) To provide for certain unanticipated obligations of the commonwealth, to provide for
52 certain other activities and projects and to meet certain requirements of law, the sums set forth in
53 subsection (b) are hereby appropriated from the General Fund for the several purposes and subject
54 to the conditions specified therein, and subject to the provisions of law regulating the disbursement
55 of public funds; provided, that notwithstanding the provisions of any general or special law to the
56 contrary, the appropriations made in section 3 shall expire on June 30, 2009; provided, however,
57 that funding shall, subject to appropriation, be authorized to continue said programs in subsequent
58 fiscal years:

59 (b) Chapter 10 of the General Laws, as appearing in the 2004 Official Edition, is hereby
60 amended by adding the following section:

61 Section 64. There shall be established and set up on the books of the commonwealth a separate
62 fund, to be known as the Clara Barton Nursing Excellence Trust Fund. Said fund shall consist of all
63 revenues from public and private sources as appropriations, gifts, grants, donations, and from the
64 federal government as reimbursements, grants-in-aid or other receipts to further the purposes of said
65 fund in accordance with the provisions of sections 19F through 19J, inclusive, of chapter 15A, and
66 any interest or investment earnings on such revenues. All revenues credited to said fund under this
67 section shall remain in said fund and shall be expended, without further appropriation, for
68 applications pursuant to sections 19F through 19J, inclusive, of chapter 15A. The state treasurer
69 shall deposit and invest monies in said fund in accordance with the provisions of sections 34, 34A
70 and 38 of chapter 29 in such a manner as to secure the highest rate of return consistent with the
71 safety of the fund. Said fund shall be expended only for the purposes stated in said sections 19F
72 through 19J, inclusive, of said chapter 15A, at the direction of the chancellor of the system of public
73 higher education, hereinafter referred to as the chancellor. On February 1 of each year, the state
74 treasurer shall notify the chancellor of any projected interest and investment earnings available for
75 expenditure from said fund for each fiscal year.

76 (c) Chapter 15A of the General Laws, as appearing in the 2004 Official Edition, is hereby
77 amended by inserting after section 19E, the following sections:

78 Section 19F. The board of higher education is authorized and directed to establish a student loan
79 repayment program and a faculty position payment program, to be known as the Clara Barton
80 Nursing Loan Repayment Program, for the purpose of encouraging existing nurses or nurse student
81 graduates committed to becoming clinical instructors or nursing faculty to teach nursing within the
82 commonwealth by providing financial assistance for the repayment of qualified education loans or
83 by providing compensation to health care facilities to cover nurse scheduled work time spent

84 teaching, as further defined herein. The board shall adopt guidelines governing the implementation
85 of the program, which shall include, but need not be limited to, the following:

86 (1) eligibility for the program shall be limited to persons who have graduated in the top twenty-five
87 percent of their practical or diploma nursing program, undergraduate, or graduate class, as certified
88 by the college, university, or school of nursing attended by such applicant, or who are otherwise
89 qualified;

90 (2) eligibility shall be limited to persons licensed to practice nursing in the commonwealth or
91 entering the nursing profession after September first, two thousand and four, or to persons entering
92 the teaching of nursing profession at a college, university, or school of nursing within the
93 commonwealth after such date;

94 (3) the commonwealth shall repay a participants' student loan at a rate not to exceed two hundred
95 dollars per month for a period not to exceed forty-eight months. Participants who work less than
96 full time shall receive loan repayment amounts in direct proportion to the percentage of full time
97 worked;

98 (4) repayment shall be made to the participant annually upon the presentation by the participant of
99 satisfactory evidence of payments under the loan;

100 (5) payments by the commonwealth shall cover only loan payments made by the participants in the
101 months during which the participant is employed as a nurse in, but not limited to, acute care
102 hospitals, long term care/chronic disease hospitals, acute inpatient rehabilitation hospitals, public
103 health hospitals, psychiatric and mental health clinics or hospitals, community or neighborhood
104 health centers, rehabilitation centers, nursing homes, or as a home health, school or public health
105 nurse in the commonwealth, or is employed to teach nursing at a college, university, or school of
106 nursing in the commonwealth. Payments by the commonwealth shall not commence until

107 participants have been employed as nurses in the commonwealth, or teachers of nursing at a
108 college, university, or school of nursing in the commonwealth, for a period of one year.
109 Participants must be employed as nurses in the commonwealth, or as teachers of nursing at a
110 college, university of school of nursing in the commonwealth, for a minimum period of four years
111 during the loan repayment period, or reimburse the commonwealth for the expense incurred during
112 the repayment period.

113 (6) in the case of those employed as nurses, the board may limit the program to those who work in
114 communities designated by the department of public health, in consultation with the federal
115 department of health and human services and the center for health professions at Worcester State
116 College, as underserved communities;

117 (7) the program shall set forth an affirmative action policy and specific annual affirmative action
118 goals. The board shall annually publish a report detailing its efforts to publicize the loan repayment
119 program in order to advance the goals of this affirmative action policy and its success in meeting
120 those goals.

121 The term "qualified education loan" shall mean any indebtedness including interest on such
122 indebtedness incurred to pay tuition or other direct expenses incurred in connection with the pursuit
123 of a practical or diploma nursing program, an associate's, baccalaureate, or graduate degree by an
124 applicant, but shall be limited to any loan which was or is administered by the financial aid office of
125 a practical or diploma nursing program, two year or four year college, university, or school of
126 nursing at which the applicant was enrolled as a practical or diploma nursing school student, or as
127 an undergraduate or graduate student, and which loan has been secured through a state or federal
128 student loan program, or which was or is administered by a commercial or institutional lender.

129 Section 19G. The board of higher education is authorized and directed to establish an expert nursing
130 corps program, to be known as the Clara Barton Expert Nursing Corps Program, for the purpose of
131 building a group of recognized nurses of high achievement in the profession who shall serve to
132 mentor incoming or novice nurses and to further the goals of the nursing profession. The board shall
133 adopt guidelines governing the implementation of the program. Such guidelines shall include, but
134 need not be limited to, the following provisions:

135 (1) the board may select expert nurses who achieve such status by obtaining specialty, modular, or
136 advanced practice certification from the American Nurses Credentialing Center, who remain in
137 good standing with the board of registration in nursing, who are current on their continuing
138 education units, and who agree to mentor incoming or novice nurses. The board may develop and
139 include alternatives to such American Nurses Credentialing Center program provided such
140 alternatives maintain equivalent or higher standards of excellence in the practice of nursing;

141 (2) the board may provide expert nurses with partial or full reimbursement for the assessment costs
142 of said American Nurses Credentialing Center certification. The board shall provide expert nurses
143 with ongoing salary bonuses. Such ongoing salary bonuses shall be limited to \$5,000 per year not
144 to exceed five years; provided, that such expert nurses continue to remain in good standing with the
145 board of registration in nursing and employed in nursing in the commonwealth, and continue to
146 mentor incoming or novice nurses. The board shall require evaluation on an annual basis of the
147 efficacy of the incentive provided to participants in the expert nurse mentoring program. The board
148 may authorize grants, in addition to the bonus to the expert nurse, to the health care facility, school
149 district, local health agency, home health agency, or nursing home in Massachusetts of such expert
150 nurse to facilitate time for the expert nurse to engage in mentoring activity; to increase the number
151 of clinical facilities or to allow for the hiring of more nurse faculty; provided further, that said

152 health care facility, school district, local health agency, home health agency, or nursing home in
153 Massachusetts shall continue the expert nurse's salary at a level irrespective of the expert nurse's
154 salary bonus;

155 (3) the board shall set forth an outreach plan to attract underrepresented populations and nurse
156 specialists in the nursing profession in areas which are designated by the department of public
157 health, in consultation with the federal department of health and human services and the Center for
158 Health Professions at Worcester State College, as underserved communities.

159 (4) the board may provide experienced nurses with graduate degrees and such courses in education
160 as the board may determine, who have agreed to teach in a nursing education program in the
161 Commonwealth with ongoing salary bonuses to reasonably compensate for the difference between
162 clinical nursing salaries and nursing faculty salaries. Such ongoing salary bonuses for nurse
163 scholars shall be limited to \$25,000 per year not to exceed ten years for nursing faculty who carry a
164 full-teaching load as defined by the institution; provided, that such nurse scholar continues to
165 remain in good standing with the board of registration in nursing and employed in nursing
166 education in the commonwealth, and continues to educate nurses; provided further, that institution
167 of higher education that employs a nurse scholar shall continue the nurse scholar's salary at a
168 professional level irrespective of the expert nurse's salary bonus.

169 Section 19H. The board of higher education shall make available grants to institutions of higher
170 education and health care institutions in the commonwealth for the purpose of fostering partnerships
171 between higher education institutions and clinical agencies that promote the recruitment and
172 retention of nurses. Such grants may also be made available to such institutions for the purpose of
173 establishing and maintaining nurse mentoring or nursing internship programs. The board shall
174 adopt guidelines governing the implementation of this section.

175 Section 19I. The board of higher education is authorized and directed to establish a scholarship
176 program, to be known as the Clara Barton Scholarship Program, to provide students in approved
177 Massachusetts' colleges, universities and schools of nursing with scholarships for tuition and fees
178 for the purpose of encouraging outstanding Massachusetts' students, to work as nurses in, but not
179 limited to, acute care hospitals, psychiatric and mental health clinics or hospitals, community or
180 neighborhood health centers, long term care hospitals, inpatient rehabilitation facilities and other
181 rehabilitation centers, nursing homes, or as a home health, school or public health nurse in the
182 commonwealth, or to teach nursing in colleges, universities, or schools of nursing in the
183 commonwealth. The board shall adopt guidelines governing the implementation of the program.
184 Colleges, universities, and schools of nursing in the commonwealth may administer the Clara
185 Barton Scholarship Program and select recipients, in accordance with guidelines adopted by the
186 board. Scholarships may be made available to full or part time matriculating students in courses of
187 study leading to a degree in nursing or the teaching of nursing. Recipients shall be residents of the
188 commonwealth and outstanding prospects based on objective measures such as leadership skills,
189 clinical knowledge, class rank, test scores, grade point average, income need and such other criteria
190 as the board may determine. In any given year, the board may target awards to students from
191 geographic and nurse specialty areas in the commonwealth determined by the department of public
192 health, in consultation with the federal department of health and human services, and the Center for
193 Health Professions at Worcester State College, to be areas experiencing an acute shortage of nurses.
194 Scholarship recipients at any public or private institution of higher education in the commonwealth
195 shall receive no more than a \$3,500 scholarship for each academic semester that the recipient
196 remains enrolled at such institution and remains in good standing. The names of recipients of such
197 scholarships shall remain confidential, unless the recipient waives such confidentiality in writing.

198 The board may also provide a scholarship recipient with a housing voucher, in such form and
199 manner as the board may determine, which shall be equal to not more than two hundred dollars per
200 month, that may be utilized by the recipient to assist in paying housing costs, including rent or
201 mortgage payments, while such recipient is enrolled in good standing in the college, university,
202 school of nursing.

203 The board, in coordination with the board of education and Massachusetts' colleges, universities
204 and schools of nursing, shall aggressively market the existence of the program to high school
205 students and to non-traditional students to encourage outstanding candidates to apply to nursing or
206 the teaching of nursing programs in institutions of higher education in the commonwealth. Such
207 marketing shall focus on candidates who would otherwise not consider a career in nursing or the
208 teaching of nursing. The board shall set forth an outreach plan to attract underrepresented
209 populations to the nursing profession.

210 Recipients must be employed as a nurse in the commonwealth, or teacher of nursing at a college,
211 university, or school of nursing in the commonwealth, for a minimum period of two years following
212 graduation. Recipients who participate in the program but do not complete their college education
213 within seven years of entering college, or who fail to complete their two year nursing commitment
214 within seven years following graduation from college, or whose license to practice in Massachusetts
215 is not maintained in good standing, or those who fail to complete their two year teaching
216 commitment within seven years following graduation from college or from a graduate school, if
217 such is required for teaching nursing at a college, university or school of nursing, shall be obligated
218 to repay the commonwealth any tuition, fees, and housing voucher payments advanced to them,
219 with interest set by the board.

220 Section 19J. The board of higher education is authorized and directed to develop a program to
221 provide matching grants to any hospital that commits resources or personnel to nurse education
222 programs. Such program shall provide a dollar-for-dollar match for any funds committed by a
223 hospital to pay for nurse faculty positions in publicly funded schools of nursing, including the costs
224 of providing hospital personnel loaned to said schools of nursing.

225 (e) Notwithstanding the provisions of any general or special law to the contrary, any state or
226 community college, or the University of Massachusetts may enter into employment contracts for a
227 minimum period of five years with faculty members who teach nursing at such institutions, unless
228 both parties agree to a shorter term of employment.

229 (f) The board of higher education shall establish an advisory committee consisting of seven
230 members whose membership shall be comprised of professionals representing the nursing
231 profession. At least one half of the membership of the committee shall be nursing educators from
232 higher education institutions and the remaining members shall be nurses in practice. The advisory
233 committee shall advise the board as to the practice of nursing and how to implement the provisions
234 of this act in a manner that would best benefit the profession of nursing and fulfill the goals of
235 recruiting and retaining people to the profession of nursing.

236 SECTION 5. Accountability of Nurse Staffing for Patient Care

237 Chapter 111 of the general laws, as appearing in the 2004 official edition, is hereby amended by
238 adding after Section 56 the following new section:

239 Section 56A: Nurse Staffing Accountability

240 a) Definitions: For the purposes of this section the following words shall have the following
241 meanings:

242 “Hospital”, a hospital subject to this chapter limited to a general acute care hospital, a public
243 hospital owned by the Commonwealth, a chronic disease hospital, an acute inpatient rehabilitation
244 hospital, and the teaching hospital of the University of Massachusetts Medical School.

245 “Nurse Staffing Plan”, an annual written plan that addresses patient nursing needs by identifying the
246 appropriate number and mix of staff for each hospital, specific to each shift in the hospital inpatient
247 services, critical care beds, and emergency departments by day of week.

248 b) Hospitals shall develop and implement an annual written nurse staffing plan based on the
249 following requirements:

250 (1) Addresses patient nursing needs in each hospital and that covers all inpatient services, critical
251 care beds, and the emergency department in said hospital;

252 (2) Sets forth a mechanism to obtain input from direct care givers, including nurses and other
253 members of the patient care team, in developing the nurse staffing plan that promotes a
254 collaborative practice that takes into consideration the quality of patient care and the health care
255 services provided by nurses and other members of the patient care team;

256 (3) provides an individual nurse or other member of the patient care team with a process and format
257 to communicate specific concerns with their current patient care assignment to an immediate
258 supervisor in a timely basis with the assurances of a timely response and no retribution or dismissal
259 for communicating such concerns;

260 (4) Identifies factors relevant to the nurse staffing plan in each hospital including, but not limited to,
261 the number of patients in a unit; intensity of care required; skill and experience of care givers
262 including registered nurses, licensed practical nurses, ancillary personnel, and other members of
263 the patient care team consistent with the level of authority and responsibility delegated under state

264 licensure; admission, discharge, and transfers; geography of a unit; and the availability of
265 technological support; and

266 (5) Addresses appropriate measures and actions to be taken by the hospital when there is significant
267 variation from the plan.

268 c) The hospital shall include in the nurse staffing plan a description of the staffing effectiveness
269 process used to monitor and improve nursing care pursuant to the applicable Joint Commission on
270 Accreditation of Healthcare Organizations standards.

271 d) The hospital shall post a copy of the nurse staffing plan inside the hospital in a manner that is
272 readily available to hospital staff and the general public;

273 e) The nurse staffing plan shall be reviewed and updated by the hospital when necessary to reflect
274 any significant changes in services; any such updates shall be incorporated as part of the annual
275 nurse staffing plan filed with the department.

276 f) The nurse staffing plan shall be approved by the hospital governing board prior to filing with the
277 Department.

278 g) Hospitals shall file the nurse staffing plan with the department 2 weeks following the start of the
279 hospital's fiscal year. Beginning in the second hospital fiscal year following April 15, 2009, each
280 hospital shall include with said filing an aggregate review of significant variations of its actual
281 staffing for the prior hospital fiscal year as compared with the nurse staffing plan filed with the
282 department for that prior year. Also included with said filing, shall be a description of the actions
283 taken by said hospital should there have been significant variations. Said plan shall be published on
284 the department web site and available to the public."

285 h) If a hospital fails to file its nurse staffing plan within the time required by law, the department
286 shall give immediate notice by mail, postage prepaid, to such hospital of its default. If the hospital

287 omits to file such report after twenty-one (21) days in which such notice of default has been
288 received, the department shall impose a late fine of \$1,000 per day. The hospital may request an
289 administrative review in writing within 15 days of the date it receives notice of the imposition of a
290 late fine by the department. The request shall state the reasons why the hospital considers the
291 imposition of the late fine to be incorrect and be accompanied by any supporting evidence and
292 arguments. The department shall notify the hospital, in writing, of the results of the administrative
293 review within 20 days of receipt of request for informal review. Failure of the department to
294 respond within that time shall be considered confirmation of the imposition of the late fine. The
295 department may require a hospital to resubmit the nurse staffing plan if the plan fails to provide the
296 information required and shall, by regulation, establish an administrative fee for review of the plan
297 and for review of any required resubmission of the plan. For any deadline established by the
298 department for a resubmission of a nurse staffing plan, the same procedure for late re-submission
299 shall apply as in the case of the initial, and subsequent annual submissions. Any late fines collected
300 by the department shall be deposited in the Clara Barton Nursing Excellence Trust Fund established
301 pursuant to Section 4 (c) of this act.

302 i) The department may conduct random audits of a hospital's nurse staffing plan to ensure that said
303 plan conforms to the provisions of this section. The department shall further afford the hospital at
304 least 30 days to develop a corrective action plan for the nurse staffing plan prior to any action taken
305 by the department.

306 j) The department shall promulgate regulations consistent with the provisions of this section.

307 SECTION 6: Evaluation of Patient Care Using Nurse-Sensitive Performance Measures

308 Hospitals shall include in their quality improvement programs a process to collect, monitor, and
309 evaluate patient care through the statewide use of three evidence-based nurse-sensitive performance

310 measures, including, but not limited to the National Databank of Nursing Quality Indicators
311 (NDNQI), to be selected by the Betsy Lehman Center, herein called “The Center.” The Center, in
312 consultation with the Massachusetts Hospital Association, shall select the three evidence-based
313 nurse-sensitive performance measures from the nationally recognized measures endorsed by the
314 National Quality Forum; one of which shall be nursing care hours per patient day as specified in
315 said Forum’s performance measures. The Massachusetts Department of Public Health shall study
316 and provide a methodology for the Betsy Lehman Center to adjust said nursing care hours per
317 patient day for differences in patient characteristics. The Center shall develop a uniform format for
318 hospitals to annually report on the selected performance measures to said Center. The Center shall
319 report to the general public both hospital-specific performance measure data as well as aggregated
320 industry trends and best practices developed from said reports. Nursing sensitive measures shall
321 include, but not be limited to: patient falls, pressure ulcers, physical/sexual assault, pain
322 management, peripheral IV infiltration, staff mix of Registered Nurses (RNs), Licensed Practical
323 Nurses (LPNs), Nurse Assistants (NAs) and Unlicensed Assistive Personnel (UAP); nursing care
324 hours provided per patient day, RN education/certification, and an RN satisfaction survey.

325 SECTION 7. Chapter 111 of the general laws, as so appearing, is hereby amended by adding after
326 Section 56A the following new section 56B:

327 56B: Limits on mandatory overtime and hours worked by the nursing profession

328 1. As used in this section, unless the context otherwise indicates, the following terms have the
329 following meanings:

330 A. “Hospital”, a hospital subject to this chapter limited to a general acute care hospital, a
331 public hospital owned by the Commonwealth, a chronic disease hospital, an acute inpatient

rehabilitation hospital, and the teaching hospital of the University of Massachusetts Medical School

B. “Nurse” means a Registered Nurse licensed under the provision of section 74 of chapter 112 of the general laws, Licensed Practical Nurse licensed under the provisions of section 74A of chapter 112 of the general laws.

C. “On-Call”, time spent by a nurse who is not currently working on the premises of the hospital, and who is either compensated for availability or as a condition of employment has agreed to be available to return to the hospital on short notice if the need arises.

D. “Overtime” means the hours worked by a nurse to deliver patient care, beyond the predetermined and regularly scheduled hours.

2. A hospital, as defined in this section, shall not require or permit a nurse to work more than 12 hours in any given shift and not to exceed 16 hours in a 24 hour period. A nurse may not be disciplined, dismissed, or discharged for refusing to work beyond the hours specified in this paragraph. A nurse that works 12 consecutive hours in a shift must be given at least 10 hours off from any work between shifts.

3. A hospital shall be limited to using mandatory overtime for emergency situations where the safety of a patient requires its use and when there is no reasonable alternative. Whenever a nurse is required to work mandatory overtime, the hospital shall document, in an aggregated manner, such use in the annual nurse staffing plan as filed with the department pursuant to Chapter 111, Section 56A.

4. The provisions of this section shall not apply to:

A. Work performed in response to: (i) any unforeseen declared national, state, or municipal emergency; (ii) an activation of the health care facility disaster or diversion plan; or (iii)

any unforeseen event which is necessary to protect the public health or safety of the patient;

B. Any additional time beyond the scheduled shift, not to exceed one hour, that is needed to:

(i) assist with a staff vacancy for the next shift that becomes known at the end of the current shift or, (ii) ensure appropriate and complete documentation and transfer of care to the next shift; or

C. Work necessary to continue critical continuity of care if there is potential harm to the patient or disruption of ongoing treatment if the nurse leaves or transfers care to another.

SECTION 8: Section 71 of chapter 111 of the general laws, as so appearing, is hereby amended by adding after subsection (iv), the following new subsection:

(v) A nursing home licensed under the provisions of this section shall certify that it will, at all times, have at least one registered nurse on duty on all shifts, on all days throughout the term of the license.

SECTION 9: Section 80B of Chapter 112 of the general laws, as so appearing, is hereby amended by adding at the end of the Section, the following new paragraph:

Each individual licensed to practice as a registered nurse or as a licensed practical nurse in the commonwealth, shall not work more than 12 hours in any given shift and shall not work in excess of 16 hours in a 24 hour period. Such registered or licensed practical nurse that works 12 consecutive hours in a shift must take at least 10 hours off between shifts. During said 10 hour period, such registered or licensed practical nurse shall not work for employment compensation for a health care facility or for any other employer, employer as defined in section 3401(d) of the Internal Revenue Code. Furthermore, a registered or licensed practical nurse shall not work for employment compensation more than 60 hours in any seven day period whether such work is for a

378 health care facility or other employer. For the purposes of this paragraph, it shall not be the
379 responsibility of the employer to ensure that a registered or licensed practical nurse has not violated
380 the limitation of hours worked as specified in this subsection except for those hours worked in the
381 employment of the employer. Registered nurses and licensed practical nurses shall solely be
382 responsible for certifying with the board of registration in nursing compliance with the provisions
383 of this subsection during their applicable licensure renewal period. Provided that any exceptions to
384 the hour limitations as addressed in Chapter 111, section 56B shall apply. Provided further, that the
385 provisions of this paragraph shall not apply to “on-call” time, so defined under Chapter 111, section
386 56B, while the nurse is not on the hospital premises.

387 .

388 SECTION 10. Commission to Study Limitations of Nursing Hours in Order to Reduce Fatigue and
389 Improve Patient Care.

390 There shall be a special commission within the Executive Office of Health and Human Services and
391 with the support of the Department of Public Health for the purpose of studying the limitations of
392 nursing hours in order to reduce fatigue and to improve patient care in hospitals. In particular, the
393 special commission shall review the recommendations of the Institute of Medicine’s report
394 “Keeping Patients Safe: Transforming the Work Environment of Nurses” (issued on November 4,
395 2003) regarding the limitation of nursing hours. The Commission shall review and study the most
396 current studies and clinical evidence regarding limitation of nursing hours and the effect of such
397 limitation on fatigue and patient safety. The commission shall also review the experience of
398 hospitals in Massachusetts that have limited nursing hours in accord with the recommendations of
399 the Institute of Medicine as stated in the “Keeping Patients Safe” reported cited above. The special
400 commission shall also work with hospitals to identify the best practices to be used in implementing

401 such limitation on nursing hours. The special commission shall consist of the Chairs of the Ways
402 and Means Committees, Commissioner of the Department of Public Health and a representative
403 from the Massachusetts Hospital Association, the Massachusetts Organization of Nurse Executives,
404 the Massachusetts Nurses Association, the Massachusetts Association of Registered Nurses, the
405 Massachusetts Medical Society, the Blue Cross and Blue Shield of Massachusetts, the
406 Massachusetts Association of Health Plans, the Associated Industries of Massachusetts, the
407 Massachusetts League of Community Health Centers, three Teaching and three Community
408 Hospitals, a Chronic Disease hospital, an Inpatient Rehabilitation hospital, the Massachusetts
409 Coalition for the Prevention of Medical Errors, the Massachusetts Association of Colleges of
410 Nursing, Community Colleges, other nursing organizations, nursing schools, and medical schools.
411 The commission shall be jointly chaired by the Chairs of the Joint Committee on Health Care
412 Financing. No action of the commission shall be considered official unless approved by a majority
413 of the members of the commission. The special commission shall file its final report and any
414 recommendations for legislation and revisions to this act regarding limitation of nursing hours to
415 reduce fatigue and improve patient care with the clerks of the Senate and House of Representatives,
416 with the House and Senate Committees on Ways and Means, the House and Senate Chairs of the
417 Joint Committee on Health Care Financing, the House and Senate Chairs of the Joint Committee on
418 Public Health, the Betsy Lehman Center and with the Governor no later than April 15, 2010.

419 SECTION 11: Effective dates.

- 420 (a) The provision of Sections 6, and 7 of this Act shall become effective on April 15, 2009.
- 421 (b) The provisions of Section 9 and 10 of this Act shall become effective on January 1,
422 2010.
- 423 (c) Section 8 of this act shall take effect on October 1, 2010.

424 (d) The balance of the act shall take effect upon passage.